

Summary of Substantive Legislation Related to Aging

North Carolina General Assembly

2007 Session



***Prepared by Staff for the:
North Carolina Study Commission on Aging***

January 24, 2008

Enacted Legislation

Extend Restriction on Home Care Licenses

S.L. 2007-125 (SB 748) extends the restriction on the Department of Health and Human Services from issuing licenses to new home care agencies that intend to offer in-home aide services. The initial restriction began on January 1, 2007 and was scheduled to expire December 31, 2007. The restriction is extended to give the Department time to assure compliance with newly adopted home care rules and will expire at the end of the 2008 calendar year. The act specifies that extending the restriction will give the Department additional time to work with existing home care agencies to assure compliance with the newly adopted home care rules. As with the earlier law, this act does not prevent the Department from issuing licenses to certified home health agencies that intend to offer in-home aide services or to agencies that need a new license due to the acquisition of an existing home care agency.

This act became effective June 27, 2007. (SP)

Senior Center Outreach

S.L. 2007-323, Sec. 10.11 (HB 1473, Sec. 10.11) requires that of the funds appropriated for the 2007-009 fiscal biennium, the Department of Health and Human Services, Division of Aging and Adult Services, must enhance senior center programs:

- To expand the outreach capacity of senior centers to reach unserved or underserved areas; or
- To provide start-up funds for new senior centers.

However, prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the county commissioners of the county in which the new center will be located must:

- Formally endorse the need for such a center;
- Formally agree on the sponsoring agency for the center; and
- Make a formal commitment to use local funds to support the ongoing operation of the center.

Additionally, this section prevents State funding from exceeding seventy-five percent (75%) of reimbursable costs.

This section became effective July 1, 2007. (TM)

Quality Improvement Consultation Program for Adult Care Homes

S.L. 2007-323, Sec. 10.12 (HB 1473, Sec. 10.12) requires the Division of Aging and Adult Services, Department of Health and Human Services, to develop a Quality Improvement Consultation Program for Adult Care Homes (Program). During development of the Program, the Division must consult with adult care home providers, county departments of social services, consumer advocates, and other interested stakeholders. The purpose of the Program is to promote better care and improve quality of life in a safe environment for residents in adult care homes through consultation and assistance with adult care home providers. County departments of social services are responsible for implementation of the Program with all adult care homes located in the respective county based on a timetable for statewide implementation.

The Program must address these topics:

- Principles and philosophies that are resident-centered and promote independence, dignity, and choice for residents;
- Approaches to develop continuous quality improvement with a focus on resident satisfaction and optimal outcomes;
- Dissemination of best practice models that have been used successfully elsewhere;
- A determination of the availability of standardized instruments, and their use to the extent possible, to assess and measure adult care home performance according to quality of life indicators;
- Utilization of quality improvement plans, that include agreed upon time frames for completion of improvements and identification of needed resources for adult care homes, and that identify and resolve issues that adversely affect quality of care and services to residents;
- Training required to equip county departments of social services' staff to implement the Program;
- A distinction of roles between the regulatory role of the Department's Division of Health Service Regulation and the quality improvement consultation and monitoring responsibilities of the county departments of social services; and
- Identification of staffing and other resources needed to implement the Program.

The Division of Aging and Adult Services is required conduct a pilot of the Program. Pursuant to the section, no more than four county departments of social services are allowed to participate in the pilot, and geographic balance and size must be considered in carrying out the pilot. At the conclusion of the pilot, the Division must make recommendations regarding the effectiveness of the Program. If the Division recommends expansion of the pilot, the report must include the cost and a proposed timetable for implementing the recommendations, including identification of any statutory or administrative rule changes. Recommendations regarding expansion of the pilot to other counties, or statewide implementation of the Program, must be made to the Secretary of the Department of Health and Human Services, the North Carolina Study Commission on Aging, the Senate Appropriations Committee on Health and Human Services, and the House of Representatives Subcommittee on Health and Human Services.

This section became effective July 1, 2007. (TM)

State-County Special Assistance

S.L. 2007-323, Sec. 10.13 (HB 1473, Sec. 10.13) provides that effective January 1, 2007, the maximum monthly rate for residents in adult care home facilities is \$1,148 per month per resident, unless adjusted by the Department of Health and Human Services, and effective October 1, 2007, the maximum monthly rate for residents in adult care home facilities increases to \$1,173, unless adjusted by the Department. The maximum monthly rate for residents in Alzheimer/Dementia special care units is \$1,515 per month per resident, unless adjusted by the Department. Effective July 1, 2007, the Department must recommend rates for State-County Special Assistance and for Adult Care Home Personal Care Services. The Department may recommend rates based on appropriate cost methodology and cost reports submitted by adult care homes that receive Special Assistance funds and must ensure that cost reporting is done for Special Assistance and Adult Care Home Personal Care Services to the same standards as apply to other residential service providers.

This section became effective July 1, 2007. (TM)

Special Assistance In-Home

S.L. 2007-323, Sec. 10.14 (HB 1473, Sec. 10.14) amends Part 3 of Article 2 of Chapter 108A of the General Statutes to add a new section pertaining to Special Assistance in-home payments. The section provides that the Department of Health and Human Services may use

funds from the existing State-County Special Assistance for Adults budget to provide Special Assistance payments to eligible individuals in in-home living arrangements. The payments may be made for up to 15% of the caseload for all State-County Special Assistance for Adults. The standard monthly payment to individuals enrolled in the in-home program must be 75% of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, unless a lesser payment amount is appropriate for the individual as determined by the local case manager. The Department is required to implement Special Assistance in-home eligibility policies and procedures to assure that in-home program participants are those individuals who need and, but for the in-home program would seek, placement in an adult care home facility. The policies and procedures must also include the use of a functional assessment. The Department must make this in-home option available to all counties on a voluntary basis and, to the maximum extent possible, must consider geographic balance in the dispersion of the payments to individuals across the State. The provision requires that for State fiscal year 2007-08, qualified individuals must not receive payments at rates less than they would have been eligible to receive in State fiscal year 2006-07.

This section became effective July 1, 2007. (TM)

Reenact Long-Term Care Credit

S.L. 2007-323, Sec. 31.5 (HB 1473, Sec. 31.5). Long-term care insurance is designed to protect individuals against the high costs of long-term care. The General Assembly enacted a long-term care insurance tax credit in 1998. It expired in 2004. This section of the act reenacts the individual income tax credit for premiums paid on long-term care insurance. The credit amount is equal to 15% of the premium paid each year on a long-term care insurance policy. The credit may not exceed \$350 for each policy for which the credit is claimed. The credit differs from the former credit in that, to be eligible to claim it, a taxpayer's adjusted gross income must not exceed a stated amount. For married taxpayers filing jointly, the income limitation is \$100,000.

This section becomes effective for taxable years beginning on or after January 1, 2007, and expires for taxable years beginning on or after January 1, 2013. (CA)

Medicaid Hardship/Estate Recovery/Data Share

S.L. 2007-442 (HB 1537) amends the Medicaid estate recovery provisions to allow the Department of Health and Human Services to continue as a fifth class creditor; amends the law regarding required data sharing by health insurers and the Department of Health and Human Services; and codifies the provisions setting forth the Medicaid hardship waiver process.

Medicaid Estate Recovery Plan. – This portion of the act amends S.L. 2005-276, Section 10.21C, which allowed the Department of Health and Human Services to impose liens against real property for Medicaid estate recovery. The act repeals the following four sections: 1) G.S. 108A-70.6 which pertained to the postponement of estate recovery in cases of undue hardship, 2) G.S. 108A-70.7 which provided direction when estate recovery is not cost effective, 3) G.S. 108A-70.8 which added a notice of estate recovery, and 4) G.S. 108A-70.9 which required county departments of social services to provide information and assistance. This portion of the act further amends the Medicaid Estate Recovery Plan to allow the Department to recover from the estates of recipients of medical assistance an equitable amount of the State and federal shares of the cost paid for the recipient. This section of the act also amends medical care services listed under the definition of "medical assistance," to specify that medical care services paid for by the North Carolina Medicaid Program on behalf of the recipient if the recipient is 55 years of age or older, no longer include Medicare premiums, private duty nursing, home health aide services, home health therapy, speech pathology services, but now include prescription drugs (replacing the requirement that prescription drugs must be related to nursing facility

services or home and community-based services). This portion of the act also grants the Department the authority to adopt rules to waive whole or partial recovery when the recovery would be inequitable because it would work an undue hardship or because it would not be administratively cost-effective.

Data Sharing. – This portion of the act amends the requirements of insurers to provide certain information to the Department of Health and Human Services. It adds the following definitions:

- "Subscriber" – means the policyholder or covered person of the insurance.
- "Applicant" – means an applicant or former applicant of medical assistance benefits.
- "Recipient" – means a present or former recipient of medical assistance benefits.
- "Request" – means any inquiry by the Department or Division for the purpose of determining the existence of insurance where the Department or Division may have expended public assistance benefits.

This portion of the act also allows information to be provided to the Division or its authorized contractor, to determine what period the individual or the individual's spouse or dependents may be (or may have been) covered by a health insurer and the nature of the coverage that is or was provided by the health insurer.

Medicaid Hardship. – This final portion of the act amends the Medicaid laws by adding a new section regarding a waiver of the transfer of assets penalty due to hardship. The act makes the following changes:

- *Notice of the Right to Request a Waiver* - Prior to the imposition of a period of ineligibility for long-term care services because of an asset transfer (penalty period), the county Department of Social Services (DSS) must notify the individual of their right to request a waiver of the penalty period because it will cause an undue hardship.
- *Process for Medicaid Applicant* - The determination of whether to waive the penalty period must be processed as part of the Medicaid application and subject to application processing standards set forth in the administrative rules when a waiver of penalty period due to undue hardship is requested by a Medicaid applicant requesting Medicaid pay for institutional care.
- *Process for Medicaid Recipient* - When an ongoing Medicaid recipient applies for institutional care, or is receiving Medicaid payment for institutional care, receives notice of the right to request a waiver of the penalty period because it will cause an undue hardship, the recipient has 12 calendar days from the date of the notice to request a waiver. The process for the waiver request is as follows:
 - 5 work days from receipt of a request for waiver, the county DSS must notify the individual in writing of the information and documentation necessary for approving the waiver.
 - 12 calendar days from the date of the notice above, the individual must provide the necessary information and documentation to establish the undue hardship.
 - At the end of the first 12 calendar day period, if the necessary information and documentation has not been received by the county DSS, the DSS must notify the individual of the necessary information and documentation and the individual will be given an additional 12 calendar days to provide information.
 - If the individual fails to request a waiver within 12 calendar days, the county DSS must impose the transfer of assets penalty in accordance with G.S. 108A-79.
 - By the end of the second 12 calendar day notice, if the necessary information and documentation has not been received by the county DSS, the DSS will deny the request for waiver and notify the individual of the denial in accordance with G.S. 108A-79.
 - The county DSS shall make a determination of whether the imposition of the penalty period would cause an undue hardship to the individual if the DSS receives the necessary information and documentation within the specified time

frames. The county DSS must complete the determination and notify the individual, pursuant to G.S. 108A-58.2(g), that: 1) an undue hardship exists the waiver is approved, or 2) an undue hardship does not exist and the request for a waiver has been denied. During the determination process, if the county DSS identifies the need for additional information and documentation, the individual must be notified in writing given a new period of time to provide the information.

- Under the changes a facility in which an institutionalized individual is residing may request an undue hardship waiver on behalf of the individual with the written consent of the individual or the personal representative of the individual.
- This portion of the act also provides that while the determination on a request for a waiver is pending, Medicaid is prevented from making payments for nursing facility services or intermediate care facility for the mentally retarded services to hold a bed for the individual. If an individual is institutionalized and receiving Medicaid payment for services, Medicaid will maintain the same level of services until the last day of the month after the later of the expiration of the ten day workday period following the notice required by law, or the date the decision of a local appeal hearing described in the law is issued if the individual requests an appeal, whichever comes later.
- *Undue hardship* – This portion of the act provides that undue hardship exists if the imposition of the penalty period would deprive the individual of medical care, such that health or life would be endangered, or of food, clothing, shelter, or other necessities of life. The individual must provide the information and documentation necessary to demonstrate to the Director of the county DSS, or designee, that:
 - The individual currently does not have an alternative source of income or resources available to provide the medical care or food, clothing, shelter or other necessities of life that the individual would be deprived of due to the imposition of the penalty; and
 - The individual or person acting on their behalf, is making a good faith effort to pursue all reasonable means to recover the transferred asset, or the fair market value of it, which may include seeking the advice of an attorney and pursuing legal remedies and cooperating with any attempt to recover the transferred asset or the fair market value.

With regard to undue hardship the following definitions apply:

- "health or life would be endangered" – means a medical doctor with knowledge of the individual's medical condition certifies in writing that in his or her professional opinion, the individual will be in danger of death or the individual's health will suffer irreparable harm if a penalty period is imposed.
 - "other necessities of life" – includes basic, life sustaining utilities, including water, heat, electricity, phone, and other items or activities that without which the individual's health or life would be endangered.
 - "income" – means all income of the individual and to the community spouse less an amount for the community spouse equal to the minimum monthly maintenance needs allowance as determined under 42 U.S.C. 1396r-5(d)(3)(A)(ii) without regard to any adjustment that would be made under 42 U.S.C. 1396r-5(e)(3) plus fifty percent (50%) of other income in excess of the minimum monthly maintenance needs allowance as described in this section.
 - "resources" – means all resources of the individual and of the community spouse except for the excluded home, the equity of a motor vehicle up to \$30,000, other personal property, and an amount of other resources for the community spouse equal to sixty percent (60%) of the community spouse resource allowance as determined under 42 U.S.C. 1396r-5(f)(2)(A) which is not less than the amount specified in 42 U.S.C. 1396r-5(f)(2)(A)(i) or greater than sixty percent (60%) of the amount specified in 42 U.S.C. 1396r-5(f)(2)(A)(ii).
- Other changes relative to this provision include:

- The specification that an undue hardship does not exist when the application of a transfer of assets penalty merely causes the individual an inconvenience or restricts his or her lifestyle.
- A requirement that during a penalty period that has been waived due to undue hardship, an acquisition by the individual of new or increased income or resources will be treated as a change in situation and evaluated pursuant to rules adopted by the Department of Health and Human Services.
- The disapproval of 10A NCAC 21B.0314, adopted by the Department of Health and Human Services on January 19, 2007 and approved by the Rules Review Commission on March 15, 2007.
- Uncodified language that provides that unless require by federal law, the Department of Health and Human Services, Division of Medical Assistance must limit notification of estate recovery to the application process for Medicaid, and to following the death of the recipient.

Reporting Requirement. - The act requires the Department of Health and Human Services to report by April 15, 2008, to the chairs of the Senate and House of Representatives appropriations Committees and the chairs of the Senate and House of Representatives appropriations Subcommittees on Health and Human Services. The report must include the following information:

- For the previous twenty four months, the total expenditure for personal care services for each year, and the total expenditure for each setting in which personal care services were provided.
- For the period beginning October 1, 2007, the total number of deceased recipients that received personal care services, the average expenditure for personal care services for those recipients, and the average value of the estate of those recipients.
- For the period beginning October 1, 2007, for each estate against which recovery is sought for the provision of personal care services, the total amount of personal care services provided, and the value of the estate.
- Recommendations, if any, by the Department for a threshold to begin recovery from the estate of a deceased recipient of personal care services.

This act became effective August 23, 2007. (TM)

Licensure Changes relating to Hospitals, Adult Care Homes, and Mental Health Facilities

S.L. 2007-444 (HB 772) makes a number of changes relating to the laws regulating the licenses of hospitals, adult care homes, and persons employed in mental health facilities or as medication aides as follows:

Licensed Hospitals- The act authorizes the Secretary of the Department of Health and Human Services to suspend admissions in a hospital or a particular service or unit of a hospital where conditions are considered dangerous to the health and safety of its patients after considering the following factors:

- The character and degree of impact the conditions would have on a patient's health and safety;
- The character and degree of impact the suspension would have on the functionality of the hospital and its ability to serve current patients and the community;
- If all other reasonable means for correcting the problem have been exhausted.

The section further provides that the facility may contest any adverse action on its license within 20 days after the Department mails notice. The section directs the Department to provide consultation to assist the hospital in correcting any conditions that led to a suspension of admissions or specific services in an effort to lift the suspension as soon as the Secretary is satisfied that the condition has improved.

The act authorizes the Division of Health Service Regulation (Formerly Division of Facility Services) to temporarily waive rules pertaining to hospitals during times of emergencies declared in accordance to the laws of the North Carolina Emergency Management Act or upon request of an emergency management agency defined in G.S. 166A-4 to the extent necessary to allow the facility to provide temporary shelter and services. The section provides the Division the authority to identify which rules and to what extent they may be waived in advance of an emergency.

Licensed Mental Health Facilities- The act amends G.S. 122C-80 to allow private entities to conduct the required State criminal history check for potential employees of licensed mental health facilities.

Medication Aides- The act makes technical corrections relating to Medication Aides and the Health Care Personnel Registry.

Licensed Adult Care Homes- The act prohibits a new license from being issued due to a change of ownership of an adult care home if outstanding fees, fines, or penalties imposed by the State against the home have not been paid. The section requires investigations of violations at an adult care home must be completed within 60 days.

This act became effective August 23, 2007. (SP)

Smoking Prohibited Inside Long Term Care Facilities

S.L. 2007-459 (HB 1294) prohibits smoking inside long-term care facilities, including adult care homes, nursing homes, skilled nursing facilities, State psychiatric hospitals, and other licensed facilities that provide long-term care services. The act requires owners, managers, or operators of a long-term care facility to:

- conspicuously post a sign stating that smoking is prohibited;
- direct any person smoking inside the facility to extinguish any lighted tobacco product; and
- provide written notice to individuals upon admittance that smoking is prohibited inside the facility and obtain the signature of the individual or the individual's representative acknowledging receipt of the notice.

The act directs home care agencies to prohibit their employees from smoking while providing services in an individual's home. The home care agency is required to inform its clients about the prohibition. Any owner, manager, or operator of facilities or home care agency not complying with the act can be fined by the Department of Health and Human Services an administrative penalty of up \$200 per violation.

The provision relating to State psychiatric hospitals becomes effective January 1, 2008 the remainder of the act became effective October 1, 2007. (SP)

Silver Alert System/Missing Persons Alert

S.L. 2007-469 (HB 38) establishes the Silver Alert System and exempts emergency medical services personnel locating missing persons from the private protective services act.

The Silver Alert System will provide a statewide system for the rapid dissemination of information regarding a missing person who is believed to be suffering from dementia or other cognitive impairment. The System will be established within the North Carolina Center for Missing Persons. The Center is required to make every effort to disseminate the information as quickly as possible when the missing person is 18 years of age or older, and the person's status as missing has been reported to a law enforcement agency. A missing person report may be submitted by a parent, spouse, guardian, legal custodian, or person responsible for the supervision of the missing individual. The Center is required to adopt guidelines and develop procedures for issuing an alert for a person believed to be suffering from dementia or other cognitive impairment, to provide education and training to encourage broadcaster participation, and to ensure that specific health information about the missing person is not made public

through the alert or otherwise. Additionally, the Center must work with the Department of Transportation to develop a procedure for the use of overhead permanent changeable message signs to provide information on the missing adult.

The act also amends the definition of private protective services to specify that it does not prevent credentialed emergency medical services personnel from engaging in search and rescue activities at the request of either the State, a political subdivision of the State, or one of following types of facilities: adult care home, health care facility, or facility licensed to offer mental health, developmental disabilities, or substance abuse services. For purposes of these changes, search and rescue is defined as the activities and documents relating to efforts to locate an individual following the individual's disappearance. However, the exemption from the definition of private protective services does not apply if the emergency medical service provider provides services beyond emergency search and rescue and if the activities meet the definition of private protective services.

The act became effective August 29, 2007. (TM)

Adult Care Home or Nursing Home/Expedited Certificate of Need

S.L. 2007-473 (HB 1685) requires the Department of Health and Human Services, Division of Health Service Regulation, to develop an expedited certificate of need review process for a current holder of a certificate of need for an adult care home or a nursing home, allowing the relocation from one licensed facility or campus to another. The expedited certificate of need review process will be available only to a facility that meets the following criteria:

- The facility currently holds a certificate of need for an adult care home or nursing home.
- The facility proposes to move from one licensed facility or campus to another licensed facility or campus.
- Both the current and the proposed facilities or campuses are located within the same county.
- The relocation of the adult care home or nursing home would not result in an increase in the total number of adult care home beds or nursing home beds for that facility or campus.

The Division is required to implement the expedited certificate of need review process no later than October 1, 2007. On or before May 1, 2008, the Department must define the minimum review criteria necessary to determine the need for relocation of a facility by the circumstances required under this act and report to the General Assembly.

This act became effective August 29, 2007, and applies to certificate of need applications for relocation of adult care homes and adult care home beds or nursing homes and nursing home beds within the same county filed on or after the date of implementation of the expedited review process by the Department of Health and Human Services, Division of Health Service Regulation. (TM)

Penalty Review/Long-Term Care Changes

S.L. 2007-544 (SB 56) amends the Penalty Review Committee, expands the Health Care Personnel Registry, and authorizes the Medical Care Commission to adopt rules for the issuance of rated certificates to adult care homes.

Penalty Review Committee. –

- The act amends the Penalty Review Committee, established within the Department of Health and Human Services, to require that the Committee meet as often as needed, but no less frequently than once each quarter of the year to review

administrative penalties assessed to adult care homes and nursing homes. The act also makes changes to the notice requirements for Committee meetings to:

- Require that public notice of Committee meetings be made via Web site.
 - Require that direct notice of the Committee meetings be made to the licensed provider, who must post the notice of the scheduled Penalty Review Committee meeting in a conspicuous place available to residents, family members, and the public.
 - Require that direct notice be provided to the local department of social services that is responsible for oversight of the facility involved and to the residents affected.
 - Replace the requirement of providing direct notice to "families or guardians of the residents affected" with a requirement that direct notice be provided to those individuals lawfully designated by the affected resident to make health care decisions for the resident.
- Changes to the Penalty Review Committee regarding notification to families and training of Committee members represent a return to statutory language that was in place prior to S.L. 2005-276 because the prior language allowed the process to function more efficiently and effectively.

Health Care Personnel Registry. –

- The act expands the Health Care Personnel Registry, maintained by the Department of Health and Human Services, which contains the names of all health care personnel working in health care facilities that have been subject to findings of neglect, abuse, diversion of drugs, fraud, or misappropriation of property. Individuals ("health care personnel") and entities ("health care facilities") subject to the provisions of the Health Care Personnel Registry are defined by law. This act adds the following entities to the list of defined health care facilities:
- Licensable Facilities – those that provide services for one or more minors, or for two or more adults, who are mentally ill, developmentally disabled, or substance abusers as defined by G.S. 122C-3(14)b.
 - Multiunit Assisted Housing with Services as defined in G.S. 131D-2.
 - Community Based Providers of Services for the Mentally Ill, the Developmentally Disabled, and Substance Abusers that are not required to be licensed under Article 2 of Chapter 122C.
 - Agencies providing in-home aide services funded through the Home and Community Care Block Grant in accordance with G.S. 143B-181.1(a)11.
- The act also expands the definition and coverage of "health care personnel" to include any unlicensed health care facility staff that has direct access to residents, clients, or their property. Direct access includes any health care facility unlicensed staff that during the course of employment has the opportunity for direct contact with an individual or an individual's property, when that individual is a resident or person to whom services are provided.

Issuance of Rated Certificates to Adult Care Homes. –

- Section 10.41, S.L. 2005-276 (SB 622) required the Department of Health and Human Services to develop a plan for implementing a rating system for adult care homes. The report from this requirement indicated that the Medical Care Commission needed authority to adopt rules for the issuance of certificates. This act gives the Medical Care Commission the authority to adopt rules for the issuance of rated certificates to adult care homes.
- The act requires that the certificates issued to adult care homes contain a rating based, at a minimum, on inspections and substantiated complaint investigations conducted by the Department of Health and Human Services to determine compliance with licensing statutes and rules. Specific areas to be reviewed include:
- Admission and discharge procedures.

- Medication management.
 - Physical plant.
 - Resident care and services, including food services, resident activities programs, and safety measures.
 - Residents' rights.
 - Sanitation grade.
 - Special Care Units.
 - Use of physical restraints and alternatives.
- The act requires that initial ratings awarded to a facility must be based on inspections, penalties imposed, and investigations of substantiated complaints that revealed noncompliance with statutes and rules, that occurred on or after the act becomes law.
 - The act also specifies that Type A penalties will affect a facility's rating for 24 months from the date the penalty is assessed and Type B penalties will affect the rating for 12 months from the date the penalty is assessed.
 - Adult care homes are required to display the rating certificate in a location visible to the public. Certificates must include the Web site address for the Department of Health and Human Services, which can be accessed for specific information regarding the basis for the facility rating. For access by the public on request, adult care homes must also maintain on-site a copy of information provided by the Department regarding the basis of the facility rating. The Web site and the on-site materials must provide information on quality improvement efforts undertaken by the facility including: participation in any quality improvement programs approved by the Department and the facility's attainment of the NC NOVA (New Organizational Vision Award) special licensure designation.
 - With regard to adult care home rated certificates the act also includes:
 - A requirement that the Department of Health and Human Services provide to the North Carolina Study Commission on Aging a copy of emergency, temporary, and permanent rules adopted.
 - The written intent of the General Assembly to provide funding for technical assistance to adult care homes for the 2008-2009 fiscal year. (This funding is provided in Section 10.54, S.L. 2007-323.)
 - A requirement that the Department of Health and Human Services, Divisions of Health Service Regulation, Aging and Adult Services, and Medical Assistance, study the structure and cost of a system to reward adult care homes which receive high ratings and to report to the North Carolina Study Commission on Aging not later than March 1, 2008.
 - A requirement that the Divisions of Health Service Regulation and Aging and Adult Services study expanding the rated certificate system to other facilities and services licensed and certified by the Department and report to the NC Study Commission on Aging by October 1, 2009.
 - A requirement that the Division of Health Service Regulation make and interim report on the implementation of the rated certificate system to the NC Study Commission on Aging not later than October 1, 2009, and a final report to the Commission not later than October 1, 2010.

The portion of the act pertaining to the Penalty Review Committee becomes effective October 1, 2007; the changes to the Health Care Personnel Registry become effective January 1, 2008; the rated certificates authorized by the act must be issued beginning January 1, 2009; and the remainder of the act became effective August 31, 2007. (TM)

Studies

Study Respite Care

S.L. 2007-39 (HB 424) requires the Department of Health and Human Services, Division of Health Service Regulation, Division of Medical Assistance, and the Division of Aging and Adult Services, to study the availability and delivery of respite care which provides temporary relief for family members and others who care for individuals with disabilities, chronic or terminal illnesses, dementia, or the elderly. The Department is required to examine the following issues:

- The need and availability of respite care in North Carolina.
- The delivery and licensing of respite care in other states and possible models for North Carolina.
- The application process for a grant under the Lifespan Respite Care Act of 2006, 42 U.S.C.
- The need for separate statutory language pertaining to respite care.
- The need, proposed structure, and development timeline for a separate licensure category for respite care.
- The development of a Medicaid waiver covering a proposed new licensure category for respite care.

The Department is required to present findings and recommendations, including any proposed statutory changes and new licensure categories, to the North Carolina Study Commission on Aging on or before March 1, 2008.

This act became effective May 11, 2007. (TM)

Study Housing/Training Mentally Ill in Adult Care Homes

S.L. 2007-156 (SB 164) directs the Department of Health and Human Services (Department) to study:

- The rules and regulations relating to the housing of individuals with mental illness in adult care homes that also house individuals without mental illness;
- The need for training direct care workers in long-term care facilities to provide appropriate care to residents with or without mental illness;
- The fiscal impact that the implementation of the training requirements would have on adult care homes; and
- The amount of funding necessary to support a successful training model.

The act requires the Department to present its findings and recommendations, including any statutory or rule changes, to the North Carolina Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before March 1, 2008.

This act became effective June 29, 2007. (SP)

Study Older Adult Programs/Various Counties

S.L. 2007-355 (SB 448) requires the Department of Health and Human Services to conduct a study in select counties of older adult programs, services, and populations, and to provide recommendations on the structure of a similar study to include all North Carolina counties.

- The Department of Health and Human Services, Division of Aging and Adult Services, to work with the Division of Health Service Regulation; Division of Medical Assistance; Division of Public Health; and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to study programs and

services for older adults in Brunswick, Buncombe, Gaston, Henderson, Moore, and New Hanover Counties which currently have, or are projected by 2030 to have, the largest numbers of individuals age 60+ when compared to individuals age 17 and younger. The Division is required to make an interim status report on the study to the North Carolina Study Commission on Aging on or before November 1, 2007. On or before April 1, 2008, the Division must make a final report of its findings and recommendations to the 2008 Regular Session of the 2007 General Assembly, the North Carolina Study Commission on Aging, and to the board of county commissioners of each county studied. In conducting the study, the Division shall utilize existing data and resources and shall include the Area Agencies on Aging serving each county studied. The study must include the following for each county studied:

- A profile of the current older adult population.
 - A profile of the projected growth for the older adult population.
 - An assessment of the anticipated impact on programs and services that address the needs of the older adult population.
 - Identification of programs and services that are currently in place.
 - Identification of programs and services that are needed to meet the growth projections.
 - Current funding sources for programs and services serving the older adult population.
 - Anticipated funding needs for programs and services serving the older adult population.
 - A delineation of the programs and services that are shared or offered jointly with another county.
- Additionally, in response to growth projections for the age 60+ population, the Division of Aging and Adult Services is required to make recommendations on a study to include all counties in North Carolina. In conducting the study, the Division must evaluate similar studies conducted in other states. On or before January 1, 2008, the Division is required to make recommendations on the appropriate funding level and criteria to be included in a study to be conducted of all counties in North Carolina. The findings and recommendations on a statewide study must be presented to the North Carolina Study Commission on Aging.

This act became effective August 17, 2007. (TM)

Penalty Review/Long-Term Care Changes-Studies Related to Rated Certificates

S.L. 2007-544 (SB 56). See Enacted Legislation this document.